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STATE OF CALIFORNIA

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January 21, 1992

Re: Opinion on California Constitution
Article XIII, Section 11

Dear Ms.

Please excuse the delay in response to your letter of October 21, 1991 but an extensive check of our files did not uncover any additional authority to the two cases cited in your letter.

Briefly you relate that City S acquired Parcel P located in the unincorporated area of County C. City S is also located in County C and Parcel P was subject to taxation by County C and appropriate districts when acquired. Subsequently Parcel P was annexed by City S and became exempt from taxation since it was now within the boundaries of City S. Later City V incorporated within County C and its boundaries completely surrounded Parcel P.

City S now intends to sell Parcel P which is no longer used for municipal purposes but for a period prior to sale it will be annexed by City V. You question the application of Section 11 during the interim period.

You cite San Francisco v. County of Alameda (1936) 5 Cal. 2d 243, wherein the California Supreme Court stated: The undoubted purpose of the amendment was primarily to safeguard the tax revenues of smaller counties wherein large municipal corporations had purchased or would acquire extensive holdings and which would, except for the amendment, be exempt from local taxation, at 245. County of Tuolumne v. State Board of Equalization (1962) 206 Cal. App 2d 352 is a later reaffirmation of the purpose of Section 11.

Since both cases involve a city and county (San Francisco) acquiring property outside its boundaries in a second county, you can factually distinguish it from your present situation with City S. Also you note that when Parcel P became exempt, the City of V did not exist and therefore did not lose tax revenues. Under these facts you question whether Section 11 should apply.

In pertinent part the constitutional section provides:

> (a) Lands owned by a local government that are outside its boundaries ... are taxable if ... or (2) they are located outside Inyo or Mono County and were taxable when acquired by the local government.

This language is a re-write of the original and was adopted on November 5, 1974. It is subsequent to the two decisions that you have cited.

In our view Section 11 is clear and unambiguous. It should be applied with the plain meaning of the language. The cited judicial decisions did not attempt to interpret or read into that language. The fact that both cases dealt with a city and county located outside the defendant county is mere coincidence and not germane to application.

The fact that City V was not in existence when Parcel P was acquired is also not controlling. Then, Parcel P was taxable to County C and the revenues were distributed to the appropriate school district and other special districts. Those revenues will be replaced if City S de-annexes Parcel P. At that time it (Parcel P) will be a land owned by a local government (City S) that is outside its boundary and it was taxable to County C when acquired. Parcel P would, therefore, be subject Section 11.

The views expressed in this letter are advisory only. You may want to consult with the appropriate county assessor's staff in order to determine its opinion on the proposed transaction.

Our intention is to provide timely, courteous and helpful responses to inquiries such as yours. Suggestions that help us to accomplish this goal are appreciated.

Very truly yours,

James M. Williams
Senior Tax Counsel

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cc: Mr. John W. Hagerty
Mr. Verne Walton